

PATENT APPLICATION

**RESPONSE UNDER 37 CFR §1.116
EXPEDITED PROCEDURE
TECHNOLOGY CENTER ART UNIT 2163**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Lalit K. MESTHA et al.

Group Art Unit: 2163

Application No.: 10/758,096

Examiner: W. LEE

Filed: January 16, 2004

Docket No.: 116588

For: REFERENCE DATABASE AND METHOD FOR DETERMINING SPECTRA USING
MEASUREMENTS FROM AN LED COLOR SENSOR AND METHOD OF
GENERATING A REFERENCE DATABASE

REQUEST FOR RECONSIDERATION AFTER FINAL REJECTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the December 31, 2007 Office Action, reconsideration in light of the following remarks is respectfully requested. Claims 1-6 and 15-18 are pending.

A. Applicants note with appreciation the allowance of claims 15-18, and the acknowledgement of allowable subject matter in claims 2-3.

B. The Office Action rejects claims 1 and 4-6 under 35 U.S.C. §103(a) over U.S. Patent No. 6,587,793 to Viassolo et al. (Viassolo) in view of "the terms definition cited in Microsoft Press Computer Dictionary." The Office Action notes that Viassolo is applied under 35 U.S.C. §102(e). However, as noted in Applicants' previous response, Viassolo and the claimed invention were commonly owned, or subject to an obligation of assignment to the

same entity, at the time the claimed invention was made. Accordingly, Viassolo may not be applied in a §102(e)/ §103(a) rejection. See 35 U.S.C. §103(c).

C. Attached hereto is a Declaration under 37 C.F.R. §1.131, signed by the inventors, showing that the invention recited in at least claims 1 and 4-6 was made before the first publication date of Viassolo. Accordingly, it would also not be appropriate to apply the Viassolo reference under §102(a)/§103(a).

* * *

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:JAN/hs

Date: March 5, 2008

Attachment:

Declaration under 37 C.F.R. §1.131

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